HC-KAR

CNR: KAHC010231252019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

REGULAR FIRST APPEAL NO. 1718 OF 2019 (PAR)

BETWEEN:

1. SMT. GUNAMMA
   W/O LATE P/D VADIVELU
   AGED ABOUT 74 YEARS

2. SRI MOHAN V
   S/O LATE P.D VADIVELU
   AGED ABOUT 62 YEARS

   APPELLANTS NO.1 AND 2
   ARE RESIDING AT NO.446
   2ND FLOOR, 65TH CROSS,
   5TH BLOCK, NEAR UDAY VIDEO
   RAJAJINAGAR, BENGALURU - 560 010

Digitally signed by PANKAJA S
Location: HIGH COURT OF KARNATAKA

3. SMT KAVITHA
   D/O LATE P.D VADIVELU
   AGED ABOUT 44 YEARS
   RESIDING AT NO.204
   YELLAMMADEVI TEMPLE STREET
   M.S NAGAR POST,
   SUBBANAPALYA, 1ST CROSS,
   WARD NO.28, BANGALORE 33

...APPELLANTS

(BY SRI. SIDDAPPA B.M, ADVOCATE)

AND:

1. SMT. ANNAPURNA L
   W/O LATE V LOKESH
   AGED ABOUT 46 YEARS
   RESIDING AT NO.446, 2ND FLOOR,
   5TH CROSS, 5TH BLOCK,
   NEAR UDAY VIDEO
   RAJAJINAGAR,
   BANGALORE - 560 010

2. SMT CHITHRA
   W/O J. JAYAPRAKASH
   D/O LATE P.D VADIVELU
   AGED ABOUT 60 YEARS
   RESIDING AT NO.3,
   'MANJUNATHA NILAYA',
   BEHIND SRI RAMA MANDIRA
   JALAHALLI WEST
   BANGALORE - 560 015

…RESPONDENTS

(BY SRI. GIRISH S, ADVOCATE FOR R1,
SRI. ADITYA BHAT, ADVOCATE FOR R2)

THIS RFA IS FILED UNDER SEC.96 R/W ORDER 41 RULE 1 OF CPC., AGAINST THE JUDGMENT AND DECREE DATED 12.06.2019 PASSED IN OS.NO.9401/2015 BY XXXIX ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU CITY, DECREEING THE SUIT FOR PARTITION AND SEPARATE POSSESSION.

THIS APPEAL, COMING ON FOR DISMISSAL, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

CNR: KAHC010231252019

ORAL JUDGMENT

This Regular First Appeal is filed by the appellant-defendants challenging the judgment and decree dated 12.06.2019 passed by the XXXIX Additional City Civil Judge, Bengaluru (for short, "the Trial Court"), whereby the Trial Court decreed the suit for partition.

2. For the sake of convenience, the parties are referred to according to their respective rankings before the Trial Court. The appellants are defendant Nos. 1, 2, and 4, and the respondents are the plaintiff and defendant No. 3, respectively.

3. The brief facts of the case necessary for the disposal of this appeal are that the plaintiff instituted the suit seeking partition and separate possession of her 1/5th share in the suit schedule property. It is the case of the plaintiff that she and the defendants are members of a Hindu joint family, of which late P.D. Vadivelu was the propositus. Late P.D. Vadivelu was the husband of defendant No. 1 and the father of defendant Nos. 2 to 4 and late V. Lokesh, who was the husband

of the plaintiff. The suit schedule property was allotted to late P.D. Vadivelu by the Karnataka Housing Board under a registered Lease-cum-Sale Agreement dated 04.05.1978, followed by a registered Sale Deed dated 22.09.1994. He subsequently constructed a two-storeyed RCC building thereon, wherein the plaintiff and the defendants were residing. The plaintiff further contended that late P.D. Vadivelu died intestate leaving behind the plaintiff's husband and the defendants as his legal heirs on 31.03.2014, and plaintiff's husband, late V. Lokesh, died thereafter on 31.07.2014. As the defendants allegedly attempted to demolish a portion of the building and alienate the suit schedule property without allotting her share, the plaintiff demanded partition, which was refused. Hence, she instituted the suit.

4. In response, defendant No. 3 filed a written statement partly admitting the plaintiff's pleadings and supporting her claim for partition. She also contended that she had contributed towards the construction of the house. On the other hand, defendant No. 2 contested the suit by disputing its maintainability and denying the plaintiff's alleged marital

relationship with late V. Lokesh as well as her status as a member of the family or legal heir of late P.D. Vadivelu. However, the relationship between late P.D. Vadivelu, defendant Nos. 1 to 4, and late V. Lokesh, as well as the ownership of the suit schedule property by late P.D. Vadivelu, was admitted. Defendant No. 2 sought the dismissal of the suit, and defendant Nos. 1 and 4 adopted the written statement filed by defendant No. 2.

5. Based on the pleadings, the Trial Court framed appropriate issues for consideration. To establish her case, the plaintiff examined herself as PW.1 and marked documents as Exs.P1 to P4. On behalf of the defendants, defendant Nos. 2 and 3 were examined as DWs.1 and 2, respectively, and no documentary evidence was produced. Upon appreciation of the oral and documentary evidence, the Trial Court decreed the suit in favour of the plaintiff, which is under challenge in the present appeal.

6. Heard the learned counsel Sri Siddappa B.M. for the appellants (defendant Nos. 1, 2, and 4), the learned counsel Sri

Girish S. for respondent No. 1/plaintiff, and the learned counsel Sri Aditya Bhat for respondent No. 2/defendant No. 3.

7. The primary contention of the learned counsel for the appellants/defendant Nos. 1, 2, and 4 is that the Trial Court erred in granting a 1/5th share to the plaintiff without the plaintiff establishing her marital relationship with late V. Lokesh and her consequent relationship with the defendants and late P.D. Vadivelu. It was submitted that the Trial Court had erroneously relied upon Ex.P4 (Ration Card) to establish the alleged marital relationship. It was argued that the plaintiff had not produced any other documentary evidence or examined independent witnesses to prove her marriage, though she claimed that the marriage was solemnised on 27.10.2000, nor had she furnished the necessary particulars of her marriage in the plaint.

8. It was further contended that the Trial Court had wrongly construed the suggestions put to the plaintiff during cross-examination as admissions and erroneously held that defendant Nos. 1, 2, and 4 had admitted the relationship, despite their specific denial. It was also argued that the plaintiff

had failed to establish that she was residing with the defendants during the lifetime of late V. Lokesh and late P.D. Vadivelu, or that she was in joint possession and enjoyment of the suit schedule property.

9. The learned counsel further submitted that the Trial Court had placed undue reliance upon the testimony of DW.2, who, being defendant No. 3, had supported the plaintiff's case despite being inimically disposed towards defendant Nos. 1, 2, and 4. It was argued that the testimony of DW.2, by itself, could not establish the alleged relationship. Hence, it was contended that the plaintiff had failed to discharge the burden of proving her relationship and entitlement to a share in the suit schedule property, and that the findings of the Trial Court, being contrary to the evidence on record and based on surmises and conjectures, are liable to be set aside. With these submissions, he prays that the appeal be allowed.

10. Per contra, the learned counsel for the respondents (the plaintiff and defendant No. 3), supporting the impugned judgment, contended that the Trial Court rightly held that the plaintiff is the wife of late V. Lokesh, the son of late P.D.

Vadivelu. Placing reliance on Ex.P4, he submitted that the ration card depicts the name and photograph of the plaintiff as the wife of late V. Lokesh. Further, DWs.1 and 2 categorically admitted Ex.P4 in their testimony, and DW.1 intentionally avoided identifying the photograph of the plaintiff thereon. Both DWs.1 and 2 also admitted that the suit schedule property was the self-acquired property of late P.D. Vadivelu and that no partition had been effected as on the date of filing of the suit. Furthermore, the defendants failed to place any reliable document on record to disprove the marital relationship between the plaintiff and late V. Lokesh. In such circumstances, the Trial Court rightly decreed the suit. Accordingly, he prays for the dismissal of the appeal.

11. Having heard the learned counsel for the parties, the points arising for my consideration are:

i. Whether the plaintiff proved that she is the wife of late V. Lokesh?

ii. Whether the plaintiff proved that the suit schedule property is the self-acquired property of late P.D.

Vadivelu and that she is entitled to a 1/5th share in the suit schedule property by way of partition?

iii. Whether the impugned order suffers from any perversity or illegality calling for interference?

12. As gathered from the records, to prove her marriage to late V. Lokesh, apart from her oral evidence, the plaintiff primarily relied upon Ex.P4 (the Ration Card). On a careful perusal of Ex.P4, it is seen that the same was issued by the Department of Food, Civil Supplies and Consumer Affairs, Government of Karnataka, in the name of V. Lokesh. The family member details therein clearly depict the name and photograph of the plaintiff as the wife of V. Lokesh. When Ex.P4 was confronted to DW.1 (defendant No. 2), he categorically admitted the document and identified the photograph of V. Lokesh. Although he did not identify the photograph of the plaintiff on Ex.P4, he did not deny the same either. Furthermore, DW.2 (defendant No. 3) categorically admitted in her cross-examination that:

"ನನ್ನ ತಂದೆ ಬದುಕಿದ್ದಾಗ ನಮ್ಮ ನಾಲ್ಕು ಜನರ ಮದುವೆಗಳನ್ನು ನೆರವೇರಿಸಿದರು ಎನ್ನುವುದು ನಿಜ. ವಾದಿಯು ನನ್ನ ಸಹೋದರ ಲೋಕೇಶ್ ಅವರ ಹೆಂಡತಿ ಎನ್ನುವುದು ನಿಜ."

13. This categorical admission by DW.2 (a sibling of the deceased V. Lokesh) clearly corroborates the testimony of PW.1 and the contents of Ex.P4. On the other hand, no contrary evidence or documents were placed on record by the contesting defendants to disprove Ex.P4 or rebut the presumption of marriage. Under these circumstances, I am of the considered view that the plaintiff is the legally wedded wife of late V. Lokesh. Accordingly, Point No. (i) is answered in the affirmative.

14. As regards Point No. (ii), the Sale Deed produced by the plaintiff (Ex.P1) reveals that late P.D. Vadivelu acquired the suit property from the Karnataka Housing Board under a Lease-cum-Sale Agreement dated 04.05.1978, followed by a registered Sale Deed dated 22.09.1994. Ever since, he was in possession and enjoyment of the suit schedule property until his death on 31.03.2014, and the husband of the plaintiff, V. Lokesh, died thereafter on 31.07.2014. It is an admitted fact by

both DWs.1 and 2 that defendant No. 1 is the wife, and defendant Nos. 2 to 4 along with late V. Lokesh are the children of late P.D. Vadivelu. It is further admitted that the suit schedule property was the self-acquired property of late P.D. Vadivelu and that he died intestate. Under Section 8 of the Hindu Succession Act, 1956, upon the death of late P.D. Vadivelu intestate, the property devolved equally upon his Class-I legal heirs—namely, his widow (defendant No. 1) and his four children (defendant Nos. 2 to 4 and late V. Lokesh)—entitling each to a 1/5th share. Upon the subsequent death of V. Lokesh on 31.07.2014, his 1/5th share devolved upon the plaintiff as his Class-I legal heir (widow). As Point No. (i) has been answered in the affirmative establishing that the plaintiff is the legally wedded wife of late V. Lokesh, she is entitled to her deceased husband's 1/5th share in the suit schedule property. Accordingly, Point No. (ii) is answered in the affirmative.

15. In view of the answers to Point Nos. (i) and (ii) in the affirmative, I am of the considered view that the Trial Court is justified in decreeing the suit while reserving liberty to the

plaintiff to agitate the relief of mesne profits in the final decree proceedings. There is no illegality or perversity in the impugned judgment and decree, and the same does not call for any interference.

Accordingly, the appeal is ***dismissed***.

SD/-
(RAJESH RAI K)
JUDGE

PKS/V
List No.: 1 Sl No.: 11